

Types of Contingencies

Information contained in this reading was taken from many sources on specific topics affecting the contingency contracting environment. This reading consolidates these diverse sources and presents them in a manner that makes information readily usable for a Contingency Contracting Officer (CCO). In addition, valuable information was incorporated from lessons learned and after-action reports from contingency operations and exercises.

Objectives

1. Define contingency, contingency contracting and declaration of contingency.
2. Identify sources of guidance to perform contingency contracting.
3. Identify the four types of contingencies, and the four other types of urgent actions that are not declared contingencies.
4. Identify the four phases of contingency contracting support.

Definition of a Contingency

A contingency is an emergency involving military forces caused by natural disasters, terrorists, subversions, or by required military operations.

Definitions of Types of Contingencies

Declared Contingency - In accordance with 10 USC 101(a)(13) a “contingency” operation of the DoD may be:

- Designated by the Secretary of Defense when members of the Armed Forces may become involved in military actions against an enemy of the United States, or
- Declared by the President or the Congress when members of the uniformed forces are called on active duty [a reserve component mobilization] under Title 10, United States Code, or any provision of law during a declared war or national emergency.

Non-declared Contingency - All other contingency operations of DoD other than that described in the paragraphs above.

Contingency Contracting

At this time there is not universal agreement as to a precise definition of this term. However, for purposes of this course, contingency contracting is defined as: “Direct contracting support to tactical and operational forces engaged in the full spectrum of armed conflict and Military Operations Other Than War, both domestic and overseas.”

This definition is purposely broad enough to include four types of contingencies: Major Theater Wars, Smaller-Scale Contingencies, Military Operations Other Than War, and Domestic Disaster/Emergency Relief (these terms will be defined later in this text).

It is also purposely exclusive of: military training exercises, routine installation and base operations, and systems/inventory control point contracting, both CONUS and OCONUS. Each of these excluded types of contracting can, under certain conditions, be quite similar to “contingency contracting” as defined for this course. However, what each of the exclusions lack is the element of **immediate risk** to human life or significant national interests.

Contingency Contracting, as defined for this course, may or may not be in support of a “contingency” operation as defined by 10 USC 101(a)(13). The formal declaration of a contingency operation is very significant for the Contingency Contracting Officers. The declaration of a contingency triggers invocation of 10 USC 2302(7) which raises the Simplified Acquisition Threshold (SAT) to \$1 million for any contract to be awarded and performed, or purchase to be made, outside the United States in support of a contingency operation.

Contingency contracting may be performed in support of a non-declared contingency or urgent action such as humanitarian or peacekeeping operations as defined in 10 USC 2302(7). The term **humanitarian** or **peacekeeping operation** is defined as “a military operation in support of the provision of humanitarian or foreign disaster assistance or in support of a peacekeeping operation under chapter VI or VII of the Charter of the United Nations. The term does not include routine training, force rotation, or stationing.”

Publication Sources

The following documents are the primary sources of guidance for performing the contingency contracting mission:

Air Force	AFFAR Supplement Appendix CC
Army	AFARS Manual No. 2
Navy	NAVSUP Instruction 4230.37A Navy Contingency Contracting Handbook
Marines	MCO P4200.15-Appendix B
DLA	Directive 5000.4, Part II Chapter 12

In joint operations, the contracting office may not be run by your service. Thus, you should familiarize yourself with the source of guidance of the service leading the operation.

The Four Types of Contingencies

1. **Major Theater War (MTW)** (Formerly Major Regional Conflicts): These are conflicts where hostilities are ongoing, imminent or likely and where there is a

substantial commitment of US military forces. Operation Desert Shield and Operation Desert Storm are examples of Major Theater War. During these operations, contracting usually supplements robust Combat Support (CS) and Combat Service Support (CSS) infrastructures.

2. **Smaller-Scale Contingencies (SSC)** (Formerly Lesser Regional Conflicts): These are also conflicts involving ongoing, imminent or likely hostilities involving the US military, but involve fewer forces, and usually a more restricted time schedule, as with Operation Just Cause (Panama). Contracting often supplements CS and CSS capabilities limited by location, strategic lift or manpower ceilings.
3. **Military Operations Other Than War (MOOTW)**: Per Joint Publication 3-0, MOOTW encompass a wide range of activities where the military instrument of national power is used for purposes other than the large-scale combat operations usually associated with war. Although MOOTW are usually conducted outside the US, they also include military support to US civil authorities. Joint Publication 3-0 lists the following categories of MOOTW: Arms Control, Combating Terrorism, Counter-drug Operations, Nation Assistance, Noncombatant Evacuation Operations, Civil Support Operations, Peace Operations, and Support to Insurgents. Operation Enduring Freedom (Afghanistan) and Joint Endeavor (Bosnia) are examples of the dozens of MOOTW conducted in recent years.
4. **Domestic Disaster/Emergency Relief (DD/ER)**: Technically a subset of MOOTW, a distinction is drawn for the purposes of this course. Domestic disaster/emergency relief operations can range from domestic natural and man-made disasters to civic disturbances to terrorist activity within the US. DoD missions in the area of disaster relief include efforts to mitigate the results of natural or man-made disasters such as hurricanes, earthquakes, floods, oil spills, riots, and air, rail or highway accidents. Examples of domestic disaster/emergency relief are DoD support to Hurricanes Isabel, Floyd and Hugo.

Other Types of Urgent Actions Not Declared Contingencies

1. **Exercises**: Routine military exercises may feel anything but “routine” to the Contingency Contracting Officers supporting them. Anyone who has participated in a COBRA GOLD, BRIGHT STAR, TEAM SPIRIT, National Training Center rotation or similar types of exercises will attest there is a very definite sense of urgency and intense mission pressure connected with them. However, there is not the urgency, pressure or risk to life or national interests associated with the four major types of contingency contracting operations discussed above. Moreover, they do not qualify as “declared contingencies” or as a major contingency type and generally receive no special consideration for other forms of relief discussed in this text. Within the military community we preach, “train as you fight”; but with respect to contracting, senior Executive Branch policy makers and the Congress have been reluctant to allow this. CCOs must be fully cognizant of the distinction between what is contractually permitted in an actual contingency and what is permitted in an exercise preparing for such a contingency.
2. **Mature vs. Immature Contracting Environments**: This is a useful, conceptual classification of the area of operations the CCO will be supporting. These

classifications are described below.

Mature. A mature contracting environment is one characterized by: a sophisticated distribution system that can rapidly respond to changing requirements and priorities; sufficient vendors who can comply with FAR requirements in order to meet contingency contracting demands and have previous experience contracting with the US government; and, in the best case, where there is an existing DoD contracting office or structure in place. Examples of mature contracting environments include Kuwait, Saudi Arabia, Korea, and Western Europe.

Immature. An immature contracting environment is an area with little or no built-up infrastructure, few vendors and of the available vendors few, if any, have previous experience contracting with the US. Examples of immature contracting environments include Afghanistan and Iraq.

Contingency Contracting Officers must consider the “maturity factor” in planning for contingency operations. They will need to bring different contracting tools based on maturity and contingency phase. For example, a CCO would set up his kit for a contingency operation in Western Europe differently than for an operation in Iraq. Regardless of the nature or location of the contingency operation, Contingency Contracting Officers will be expected to comply with the spirit and letter of existing law and regulation to the fullest extent possible consistent with mission accomplishment.

3. **Acquisition In Foreign Countries:** The general rule of thumb is that U.S. socio-economic laws and regulations do not apply in foreign countries. Examples may include, but are not limited to, EEO, small business programs, affirmative action programs, drug-free workplace, Buy American, International Balance of Payments, OSHA-based requirements (caution: this generally does apply for work performed on U.S. owned or controlled property), and the Davis-Bacon, Walsh-Healey and Service Contract Acts.

However, before throwing caution to the wind, Contingency Contracting Officers must ensure all the conditions emphasized above are met. Further, international agreements and treaties often require the US to observe similar socio-economic host nation laws when contracting within their boundaries.

4. **Humanitarian/Peacekeeping Operations:** Is defined as a military operation in support of the provisions of humanitarian or foreign disaster assistance or in support of a peacekeeping operation under chapter VI or VII of the United Nations’ charter. The term does not include routine training, force rotation, or stationing.

Four Typical Phases of Contracting Support during Contingencies

While not all operations will follow the sequential framework outlined below, this is a useful framework for conceptualization and discussion of the contracting actions necessary to support contingencies.

Phase I: Mobilization/Initial Deployment: This is normally the first 30-45 days of a deployment and is characterized by an extremely high tempo, confusion and controlled chaos. The Contingency Contracting Officers' **number one priority will be responsiveness to basic life support requirements to provide contracting support for the arrival of the initial forces.** These forces will require the following supplies and services for the initial bed-down: billeting, food service (including potable water), transportation and equipment rental, ground fuel, laundry and bath services, refuse and sanitation services, utilities, and interpreters or guides.

During this phase, a Contingency Contracting Officers may be situated in the undesirable position of being the requester, approving official, certifying officer, and transportation office for deliveries because of the need to award contracts immediately upon arrival at the deployment site. This is why prior to deployment the Contingency Contracting Officer has access to sample "boiler-plate" statements of work, PIIN logs, forms, and several other items. "Boiler-plate" items should be pre-loaded on the Contingency Contracting Officer's laptop and in hard copy in the Contingency Contracting Kit. Despite this, detailed planning can preclude some of these "additional duties". However, physical limitations on the number of support personnel deployed in the early stages of a contingency will require a high degree of flexibility on the part of the Contingency Contracting Officers. SF44s/cash payments, Government-wide Commercial Purchase Card (GCPC) and Blanket Purchase Agreements (BPAs) will be the predominant contracting actions. Contingency Contracting Officers will use the Purchase Card Program, Imprest Funds/Third Party Drafts, and Purchase Orders in a limited capacity.

Phase II: Build-Up: This phase is characterized by a reception and bed-down of the main body of deploying forces. In this phase, additional contracting personnel will generally arrive with their units, though not necessarily at a rate commensurate with the number of troops to be supported. The Contingency Contracting Officers' priorities during this phase will continue to be responsiveness to life support requirements, but attention must also be given to:

Types of requirements during this stage would include the following:

- Construction material
- Heavy equipment
- Horizontal construction
- Office equipment/furniture
- Quality of life/MWR items such as:
 - TVs
 - VCR's and DVD's
 - Gym and sports equipment

- Gaining effective command and control over contracting and contracting support personnel.
- Establishing a vendor base.
- Putting requisitioning, funding and contracting controls and procedures into place.
- Establishing Non-Appropriated Funds (NAF) contracting procedures to support quality of life programs (where applicable).
- Establishing Blanket Purchase Agreements (BPAs), consolidating requirements into purchase orders and contracts rather than using a high volume, and physically time consuming SF 44 cash transactions by the Contingency Contracting Officers.
- Establishing an Ordering Officer (OO) network with effective control measures.

Phase III: Sustainment: This phase provides contracting support from the completion of the build-up phase until redeployment begins. The contracting activity will expand into contracts for additional quality of life, more permanent facilities and equipment, additional office supplies, and discretionary services. The Contingency Contracting Officers' priorities during this phase will be:

5. Establishing long term contracts (IDIQ, additional BPAs) and consolidating requirements wherever possible to achieve economies of scale, reduce cost, and mitigate risk.
6. Improve documentation of contracting actions and internal controls.
7. Increasing competition and depth within the vendor base, to include offshore sourcing for items/services not available within the immediate area.
8. Planning for transition to follow-on forces or termination and redeployment.

Phase IV: Termination/Redeployment: This phase will be characterized by significant pressure and urgency to either "send the troops home" or prepare forces for "forward deploying" into a new area. Life support contracts will continue to the very end, though the quantity will decrease. Typical new requirements include: packing, crating, and freight services; construction and operation of wash racks for vehicles; commercial air passenger services (if TRANSCOM is not providing this).

Contingency Contracting Officers will be required to terminate and closeout existing contracts and orders. Ratifications and claims must be processed to completion. When a follow-on force is required, the Contingency Contracting Officers must prepare contracts and files for delegation/assignment to the incoming contracting agency (DCMA, UN, etc.)

Contract reporting and file documentation must be current and accurate so the audit trail is easy to follow. Contingency Contracting Officers can count on being the last to leave! Contingency Contracting Officers should start the after action report while still in the deployment theater, not wait until returned home. Contingency Contracting Officers should keep a daily record of any unique happenings that may help future Contingency Contracting Officers, beginning from the time that you are notified to deploy.